

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL NO. 1456
LITIGATION) Civil Action No. 01-12257-PBS
) Subcategory Case No. 03-10643
THIS DOCUMENT RELATES TO:)
<i>The City of New York, et al.</i>) Judge Patti B. Saris
v.)
<i>Abbott Laboratories, et al.</i>) Magistrate Judge Bowler
)
)

**PLAINTIFFS' MOTION FOR LEAVE TO FILE REPLY MEMORANDUM IN
FURTHER SUPPORT OF PLAINTIFFS' MOTION TO COMPEL DISCOVERY FROM
DEFENDANT MERCK & CO., INC., AND EXHIBITS TO THE DECLARATION OF
JOANNE M. CICALA IN SUPPORT THEREOF UNDER SEAL**

Plaintiffs, the City of New York and New York Counties in MDL 1456 hereby move, pursuant to Local Rule 7.2 and ¶15 of the December 13, 2002 Protective Order in this case [Docket No. 276] for permission to file under seal the full, un-redacted versions of Plaintiffs' Reply Memorandum in Further Support of Plaintiffs' Motion to Compel Discovery from Defendant Merck & Co., Inc. ("Plaintiffs' Reply Mem.") and Exhibits A and B to the Declaration of Joanne M. Cicala, Esq. ("Cicala Declaration") in Support thereof, sworn to October 23, 2009. Plaintiffs' Reply Mem. and Exhibits A and B to the Cicala Declaration contain testimony that has been designated as "Highly Confidential" by third-party wholesalers pursuant to the December 13, 2002 Protective Order in this case [Docket No. 276].

WHEREFORE, plaintiffs respectfully request that this Court enter an Order permitting them to file under seal the un-redacted versions of Plaintiffs' Reply Mem. and Exhibits A and B to the Cicala Declaration.

Dated: October 23, 2009

Respectfully submitted,

By: /s/ Joanne M. Cicala
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Local Rule 7.1(A)(2) Certification

The undersigned counsel certifies that she has conferred with counsel for defendant Merck and counsel assents to this motion.

Dated: October 23, 2009

/s/ Joanne M. Cicala
Joanne M. Cicala

CERTIFICATE OF SERVICE

I, Kathryn B. Allen, hereby certify that I caused a true and correct copy of the foregoing to be served on counsel of record via electronic service pursuant to paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File and Serve for posting and notification to all parties.

Dated: October 23, 2009

/s/
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